

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF PITTSFIELD COMMUNITY TELEVISION

Pittsfield Community Television appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking ("FNPRM") in the above-referenced docket. Pittsfield Community Television, or "PCTV" as it is known locally, is based in and serves the community of Pittsfield, Massachusetts, and has done so since being founded in 1986. Pittsfield, located in Berkshire County, in the Westernmost area of the state, actually belongs to the Albany, NY DMA. Because of this designation, historically PCTV has served a special role in providing information, entertainment, sports, and access to cable subscribers in the area, that is not being provided by broadcasters across the state border in New York. Due to the mountainous geography, it is not possible to receive over-the-air broadcast stations located in Massachusetts, and the local cable company has eliminated carriage of nearly all of these stations from their lineup. This difficulty places an increased importance on the programming provided by PCTV.

We estimate that between 14,000 and 18,000 homes are served by our three channels: Access Pittsfield, which is a public access channel serving the public and many nonprofit organizations; Pittsfield ETV, an education access channel which serves the education community including public, private and parochial schools, and the local community college; and Citylink, a

government access channel which serves governmental organizations, but also provides a critical link between residents and their local government meetings. Citylink also archives all of these meetings and provides copies to the local government.

Programming that is unique to PCTV includes coverage of local events such as the Fourth of July Parade, high school graduations and school concerts, school committee meetings, city council and dozens of other municipal meetings, press conferences, local high school sports events, Veterans' day parade and memorial service, programs by and for the elderly, and a host of volunteer-driven programming that provides information to underserved populations. There are many thousands of first-run, original programming aired across the three channels each year. None of it would be possible without the facility, staff and training provided by PCTV.

We strongly oppose the tentative conclusion in the FNPRM that cable-related in-kind contributions, such as those that allow our programming to be viewed on the cable system, are franchise fees. These fees are negotiated in good faith as compensation for cable company access to public rights-of-way. Especially in an area such as Pittsfield, where the likelihood of a cable competitor overbuilding to provide a choice for consumers is negligible, these fees are an important tool for our local municipality to ensure that local programming and PEG access services can be made available to its residents, in the public's interest.

In fact, for decades now, the cable company has insisted on "breaking out" the PEG access fees on subscribers' bills. This move indicates that the cable company does not itself believe that these fees are somehow an "in-kind" contribution. They believe that the fees are what the municipality, at franchise negotiation, is prepared to ask subscribers to pay for PEG access. In addition, the fees that the cable company has extracted from subscribers to reimburse itself for installing and maintaining the Institutional Network (INET) are also indicative of their position on

these assets: they are paid for by subscribers, not by the company. How the cable company can shift its attitude from its earlier opinion to this proposed FNPRM, we are left dumbfounded.

If this proposed FNPRM were to take effect, it would have a devastating impact on our budget and our ability to provide these services to our community. Like all nonprofit organizations, we participate in fundraising activities; however, this income is not enough to sustain the organization, and the loss of cable franchise fees would probably mean the end of our ability to provide these services and programming. We also question the process by which a cable company will determine the value of the items they provide. Are we to take their word for it? Will there be some sort of rate chart that they use to determine the value of an INET, of channel space, and such? Will that vary based on the market? There are just too many unanswered questions, and leaving the fox to guard the henhouse will leave consumers without a critical resource in this small community.

We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or a third-party PEG provider, rather than for the public or the cable consumer. As demonstrated above, PCTV provides valuable local programming that is not otherwise available on the cable system or in other modes of video delivery such as satellite. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated the LFA and therefore

should not be considered contributions to an LFA.”¹ PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public at large.

Our organization was recently praised by the mayor and members of the city council. This happened during a public hearing about the performance of the cable company relative to its local franchise agreement, and again at a city council committee-of-the-whole meeting. After the cable company moved the PEG access channels into the 1300s, Councilor at-large Earl Persip told a Spectrum representative at the committee-of-the-whole meeting on August 15, 2018, “I have had more calls about where these channels are at, than almost anything that’s happened in this city.” He went on to say, “These are a benefit to the community, and I would hope Spectrum would think they are a community partner.”

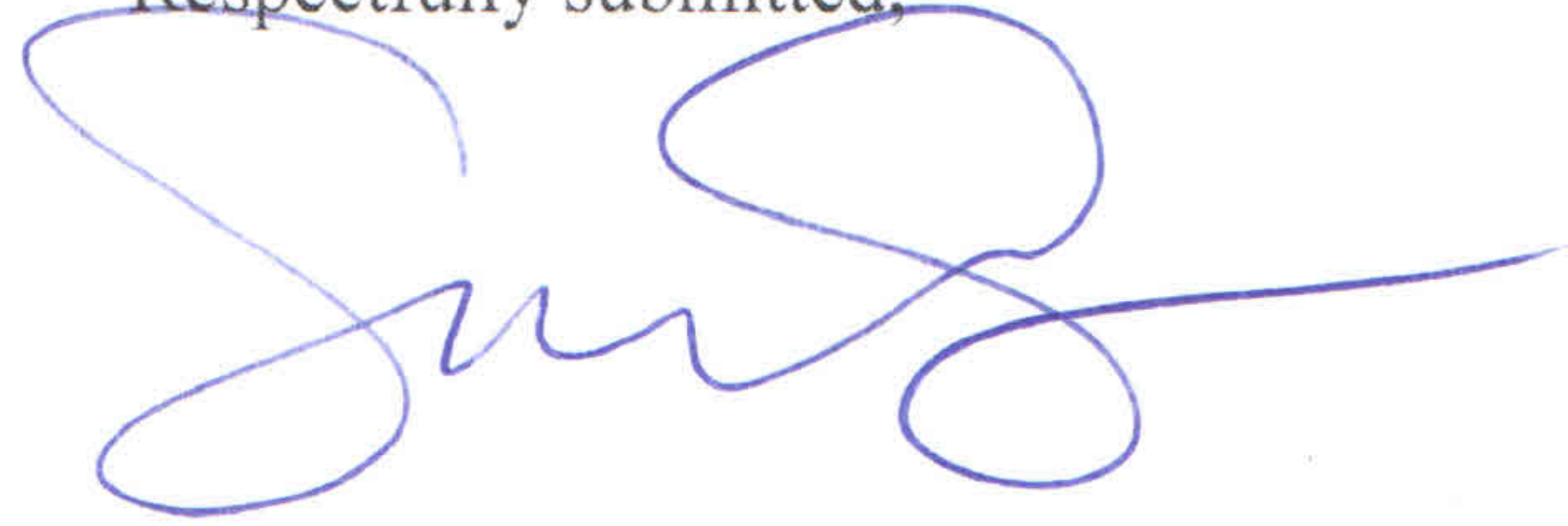
Councilor at-large Peter White testified at the public hearing on March 19, 2018, “We need access to these channels (referring to the PEG channels provided by PCTV). We already are cut off from Massachusetts because Channel 22 is gone (a reference to the cable company removing WWLP, Springfield, from the lineup), we can’t get local news out here except through NECN. So we need to be able to connect our people with what’s going on in their government...”

Comments such as these reinforce our view that the local programming provided through the LFA is an irreplaceable asset to this community, and that this FNPRM threatens to disrupt or possibly eliminate the funding that keeps the programming available to members of the public. We implore the FCC to reconsider and reverse these actions.

We appreciate the opportunity to add to the record in this proceeding.

¹ FNPRM ¶ 21.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Shawn T. Serre', with a long horizontal flourish extending to the right.

Shawn T. Serre
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November 13, 2018